

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	CHAPTER 13	Hearing Date: 12/07/21
	:		Time: 1:00 p.m.
JOSEPH J. BENDER	:		Place: Courtroom #1
FRANCINE M. BENDER	:		U.S. Bankruptcy Ct.
	:		900 Market Street
DEBTORS	:	NO. 21-11328 (ELF)	Phila., PA 19107

**MOTION OF DEBTOR TO AVOID JUDICIAL LIEN
PURSUANT TO 11 U.S.C. §522(f)(1)**

TO THE HONORABLE ERIC L. FRANK, UNITED STATES BANKRUPTCY JUDGE:

Francine M. Bender (“Debtor”), by and through her attorney, David B. Spitofsky, Esquire, respectfully represents:

1. The above-captioned case was commenced by the filing of a Voluntary Petition for Relief under Chapter 7 of Title 11 of the United States Code on May 10, 2021.

2. The Court has jurisdiction to entertain this Motion pursuant to 11 U.S.C. §522(f)(1)(A) in that this action is filed by Debtor to avoid a judicial lien.

3. Cavalry SPV I, LLC, as assignee of Citibank, N.A. (the “Respondent”) brought suit against Debtor to secure payment of an alleged outstanding debt in the County of Delaware, Commonwealth of Pennsylvania. A judgment was entered in Respondent’s favor in the amount of \$3,603.12 on January 30, 2020; such judgment was indexed to the Court of Common Pleas, Delaware County, Pennsylvania – Civil Division, No. 2019-009543 (“Judicial Lien”). The Judicial Lien vested in Respondent a lien on Debtor’s real property that Debtor utilizes as her residence. Said residence is known as 19 Steeplechase Circle Aston, PA 19014 (“Residence”). A true and correct copy of the Delaware County Docket evidencing the judgment is marked as Exhibit “A” attached hereto and made a part hereof.

4. On June 4, 2021, Respondent filed a proof of claim (docketed as No. 6 on the claims register) in the secured amount of \$3,879.13, adding interest in the amount of \$276.01 to the

judgment amount. A true and correct copy of Respondent's proof of claim is marked as Exhibit "B" attached hereto and made a part hereof.

5. Debtor believes the fair market value of the Residence to be \$290,750.00, without deducting any reasonable and necessary costs for a potential sale, as evidenced by a fair market valuation. Attached hereto, incorporated herein, and marked as Exhibit "C" is a fair market valuation of the Residence. The Residence is encumbered by two unavoidable liens, including a mortgage with a balance as of the date of commencement of this case of \$159,678.18, and a homeowner's association lien of \$3,777.66. True and correct copies of the mortgagee's and homeowner's association's proofs of claim are attached hereto, incorporated herein, and marked as Exhibit "D" and Exhibit "E", respectively.

6. Under 11 U.S.C. § 522 (f)(2)(A) "a lien shall be considered to impair an exemption to the extent that the sum of...(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens."

7. Debtor's interest in the Residence referred to in the preceding paragraph and encumbered by the Judicial Lien has been claimed as fully exempt in the bankruptcy case as set forth on Debtor's Amended Schedule "C", which is incorporated by reference.

8. The Judicial Lien impairs the Debtor's exemption on the Residence and is otherwise unsecured based on the value of the Residence.

WHEREFORE, Debtor respectfully requests this Honorable Court to enter the Order avoiding the Judicial Lien on Debtor's Residence, reclassifying Respondent's claim as general

unsecured, and for such additional or alternative relief as may be just and proper.

Date: November 4, 2021

Respectfully submitted,

/s/ David B. Spitofsky
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